

**REMARKS**

Claims 1-4, 7, 8 and 23-34 remain in the application. No claim has been allowed.

Many of the claims are now rejected under U.S.C. 35 § 103 as being unpatentable over U.S. Patent No. 6,591,116 to Laurila, *et al.* ("Laurila") and U.S. Patent No. 6,044,271 to Findikli (Findikli"). We remind the Examiner that the claims were previously amended to recite the pertinent step of "transmitting query messages on the wireless subsystem from the handset to the database to retrieve the capability data".

The invention thus provides a system and method for allowing a multimode handset to select its operating mode by requesting a base station to provide data indicative of the operating mode capability of a wireless subsystem (or particular base stations). This information is provided by the base station in response to a query from the handset to the base station. With Applicants' approach, a database located at a central location is accessible to base stations and contains data indicative of operating mode capabilities of the wireless subsystem. A handset then initiates query messages to the base station, which then accesses the database. After retrieving the capability data from the database, a response message is provided to the handset from the base station. The handset can then operate in a second mode if the retrieved capability data indicates that the subsystem is capable as such.

This approach reduces system complexity and avoids increased operating cost. Significantly, an enhanced capability can be implemented at one or more wireless subsystems without first requiring that the wireless subsystems be modified to permit signaling for the availability of the enhanced capability.

Laurila, as described in Applicants' prior response, is a mobile device that includes a data storage module referred to as a Subscriber Identity Module (SIM/USIM or UICC). The SIM/USIM is a removable data card that is coupled directly to the mobile equipment (Laurila, column 4, lines 36-39), and is not a database that is located remotely from the mobile equipment.

Additionally, the data storage modules stores information as to the capabilities of the mobile device itself. The purpose therein is then to allow the network, as opposed to the mobile device, to select and use the latest applications and features that the mobile device supports (Laurila, column 2, lines 58 through column 3, line 26).

The Examiner's inexact paraphrasing of Applicants' claim 1, thus misses an important distinguishing feature of Applicants' invention. The database is not associated with the base station in Laurila--rather the database in Laurila is associated with the handset.

Furthermore, Applicants' claims require transmitting query messages from the handset to the database, and not the other way around. The Examiner is of the opinion that Findikli discloses the step of transmitting query messages on a wireless subsystem, referring specifically to column 4, lines 40-60 and column 5, lines 2-25. However, those sections of Findikli are describing a handoff process which modifies standard handoff procedures under IS-136.2 to allow the mobile station to be informed if a new channel has the same capabilities as the old channel. Thus, in Findikli, the information is not being passed in response to a request from the mobile station. Rather, it is being initiated by the base station as part of a base station initiated handover procedure. Specifically, Findikli requires using reserved bits in an IS-136 handover message (the CCI bits).

Indeed, Findikli seems to teach away from having a mobile station request system capability information; see the statement at column 4, line 37, where it is believed by Findikli that voice quality would be degraded at handoff, if the handset were initiating a query.

We thus believe that the Examiner has failed to make out a *prima facie* case of obviousness, since neither Laurila or Findikli disclose all elements of Applicants' claim 1. Furthermore, Applicants' invention does not require modification or use of IS-136 standard handover signaling bits and is thus a non-obvious improvement over the prior art.

Indeed, this points out another distinction in Applicants' claim 5. Claim 2 requires that the process be carried out after the handover procedure is completed, and not during. This is a further indication of patentability given that the query attempt by the handset is deferred until after communication has been substantially established with the base station.

Thus, claim 2 should also be allowed.

Claim 23 should be allowed for similar reasons to claim 2, given that the query message to retrieve capability data are not transmitted until execution of the handoff.

We furthermore must disagree with the Examiner's reasoning regarding claim 25. Kannas, U.S. Patent No. 6,683,853, does not in any way suggest designating a database as being accessible through a second internet destination port for the handset. The Examiner provides no

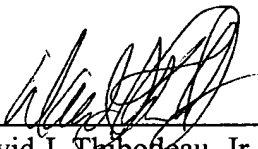
citation to any section of Kannas for this proposition. As has been explained in their previous response, Applicants firmly believe that Kannas merely describes that an internet server can communicate with a wireless subscriber unit over a radio and the core (wired) network. Thus, the Kannas patent does not teach or suggest making a database available that contains data indicative of operating capability of a wireless server system, transmitting query messages on the wireless subsystem, switching or operating a handset in a mode indicated by the retrieved capability data, nor is there any suggestion that a second internet port of a handset can be queried for capability of the wireless subsystem.

### CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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